

November 4, 2018

The Honorable Jesse M. Furman
Thurgood Marshall U.S. Courthouse
United States District Court for the Southern District of New York
40 Centre Street, Room 2202
New York, NY 10007

RE: Plaintiffs' Status Report in *State of New York, et al. v. U.S. Dep't of Commerce, et al.*, 18-CV-2921 (JMF).

Dear Judge Furman,

Pursuant to Paragraph 1(A) of this Court's Individual Rules and Practices, Plaintiffs submit this letter to update the Court on several matters related to Plaintiffs' exhibits.

1. As the Court requested at the final pretrial conference (Nov. 1 Tr. at 60), Plaintiffs provide the following updates regarding Plaintiffs' October 26 Exhibit List (Docket No. 409-2).

Plaintiffs withdraw six of the exhibits identified on this Exhibit List: PX-308, PX-310, PX-391, PX-415, PX-451, and PX-520.

In addition, Plaintiffs inadvertently omitted two exhibits, PX-165 and PX-342; and inadvertently submitted an incorrect document for one exhibit, PX-411. The correct versions for all three exhibits were served on Defendants last week by November 1, and will be submitted to the Court before trial using the procedures described in the Court's September 17 Scheduling Order (Docket No. 323).

2. At the start of trial on Monday morning, Plaintiffs intend to move into the record four categories of exhibits that we believe can be readily addressed: (1) exhibits to which Defendants have not raised any objection; (2) exhibits to which Defendants have objected only on the ground of Rule 401 relevance; (3) exhibits to which Defendants have objected only on the ground of Rule 403 cumulativeness; and (4) exhibits to which Defendants have objected only on the grounds of Rule 401 relevance and Rule 403 cumulativeness. In the interest of making a clear record and to avoid the need to read each exhibit number into the trial transcript, Plaintiffs attach to this letter a list of the exhibits that fall under each of the categories we intend to address. *See* Attach. 1 (no objections); Attach. 2 (Rule 401 objections only); Attach. 3 (Rule 403 objections only); Attach. 4 (Rule 401 and Rule 403 objections only).

3. As discussed with the Court (Oct. 24 Tr. at 39-40; Nov. 1 Tr. at 61), Plaintiffs served a Supplemental Exhibit List on Defendants on October 31, and Defendants lodged objections to those exhibits today. (Docket No. 477). Plaintiffs will submit these exhibits to the Court before the start of trial. Defendants have lodged with Plaintiffs a clawback request to one of the exhibits identified on the Supplemental Exhibit List; Plaintiffs will not include this exhibit in our submission to the Court, and if the parties are not able to resolve any disagreement, Plaintiffs will submit that exhibit to the Court under seal for a determination of the privilege claim as provided by Fed. R. Civ. P. 26(b)(5)(B) and the Court's September 4 Order (Docket No. 296).

Respectfully submitted,

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Attachment 1

Plaintiffs' Exhibits: No objections by Defendants

PX-1 to PX-8
PX-10 to PX-14
PX-153
PX-155
PX-162
PX-260
PX-262
PX-265
PX-292 to PX-293
PX-295
PX-359
PX-361
PX-372
PX-380
PX-406
PX-475
PX-478
PX-503
PX-543
PX-548
PX-551
PX-561
PX-565
PX-580 to PX-603
PX-605 to PX-613
PX-615 to PX-622

Attachment 2

Plaintiffs' Exhibits: Rule 401 objections only

PX-559 to PX-560

PX-655

Attachment 3

Plaintiffs' Exhibits: Rule 403 objections only

PX-17 to PX-150
PX-158
PX-167 to PX-173
PX-175 to PX-177
PX-179 to PX-180
PX-220
PX-285 to PX-286
PX-315
PX-357
PX-374
PX-490
PX-523 to PX-524
PX-537
PX-542
PX-545 to PX-547
PX-549 to PX-550
PX-552 to PX-558
PX-568 to PX-579

Attachment 4

Plaintiffs' Exhibits: Rule 401 and Rule 403 objections only

PX-009	PX-296 to PX-309
PX-015 to PX-016	PX-311 to PX-314
PX-151 to PX-152	PX-316 to PX-356
PX-154	PX-358
PX-156 to PX-157	PX-360
PX-159 to PX-161	PX-362 to PX-368
PX-163 to PX-164	PX-370 to PX-371
PX-166	PX-373
PX-174	PX-375 to PX-379
PX-178	PX-381 to PX-405
PX-181	PX-407 to PX-474
PX-185	PX-476 to PX-477
PX-188 to PX-219	PX-479 to PX-489
PX-221 to PX-259	PX-491 to PX-502
PX-261	PX-504 to PX-519
PX-263 to PX-264	PX-521 to PX-522
PX-266 to PX-283	PX-525 to PX-536
PX-287 to PX-291	PX-538 to PX-541
PX-294	